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In re Application of	:
Kobayashi et al.	:
Application No. 10/737,336	: DECISION ON PETITION
Filed: December 16, 2003	: UNDER 37 CFR 1.55(c)
Attorney Docket No. KIK01 P-322A	:

This is a decision on the petition under 37 CFR 1.55(c), filed January 3, 2005, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) – (d) and (f) for the filing date of Japanese Application No. 2000-166833, filed April 26, 2000.

The petition is **DISMISSED**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) the nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and must be supplied on an application data sheet (ADS) in accordance with 37 CFR 1.76 or on the oath or declaration;
- (3) the surcharge set forth in § 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1)(i) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional); and
- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant petition does not comply with item (2) above. Petitioner failed to include the claim for foreign priority in either an ADS or on the oath or declaration.

Further, after a review of the above-identified application, it does not appear that a certified copy of the above-noted Japanese application has been submitted. Although it is not required for the instant petition, petitioner is reminded that the certified copy must be filed before the patent is granted.

Accordingly, before the petition under 37 CFR 1.55(c) can be granted, an ADS or an oath or declaration incorporating the claim for foreign priority, along with a renewed petition under 37 CFR 1.55(c), is required.

Further correspondence with respect to this matter should be addressed as follows:


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Any questions concerning this matter may be directed to Paralegal Liana Chase at (571) 272-3206.


Frances Hicks
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